

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
MINUTES OF A PUBLIC HEARING**

DATE..... May 19, 2004
 TIME..... 7:00 P.M.
 PLACE..... County Office Building
 20 N. 3RD Street
 Lafayette, IN 47901

MEMBERS PRESENT

Mark Hermodson
 KD Benson
 John Knochel
 Lynda Phebus
 Jeff Kessler
 Gary Schroeder
 Steve Schreckengast
 Kathy Vernon
 Kevin Klinker
 Mike Smith
 Vicky Pearl
 Bob Bowman
 Steve Egly
 David Williams

MEMBERS ABSENT

Dr. Carl Griffin

STAFF PRESENT

Sallie Fahey
 Margy Deverall
 Kathy Lind
 Julie Holder
 Jay Seeger, Atty.

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 19th day of May 2004, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

Mark Hermodson called the meeting to order.

I. BRIEFING SESSION

Sallie Fahey informed the Commission that **Z-2178 Robert Meister (GB to PDNR)** would have to be continued to the June 16th meeting as per the staff's request in order to resolve access issues. She stated that the petitioners for **Z-2182—Cory Homes, Inc. and Community Homes, Inc. (R1B to NB)** and **Z-2179 – Eagle's Nest Corporation (R1 to R1B)** have requested continuance to the June 16th 2004 Area Plan Commission meeting. She said that **S-3497—Wintergreen Woods Subdivision Minor Sketch** would have to be continued to the June 2nd Executive Committee meeting because a revised subdivision layout was submitted with a larger subdivision boundary requiring the case to be re-advertised.

II. APPROVAL OF MINUTES

Jeff Kessler moved to approve the minutes of the April 21, 2004 minutes. Kathy Vernon seconded and the motion carried by voice vote.

III. NEW BUSINESS

A. FINAL DETAILED PLANS

RESOLUTION PD 04-16: TOWER OF IVORY PLANNED DEVELOPMENT (Z-2147): Final Detailed Plans for 26 units in 13 semi-attached condominium buildings on 5.17- acres. The site is located on the east side of Happy Hollow Road, south of Whispering Winds Apartments in West Lafayette, Wabash 8 (SW) 23-4. CONTINUED FROM THE MAY 5TH EXECUTIVE COMMITTEE MEETING.

Jeff Kessler moved to approve **RESOLUTION PD 04-16.** Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map and site plan. She read the staff report with recommendation of approval.

Daniel Teder, PO Box 280, Lafayette, IN, concurred with staff report and asked for approval. He mentioned that the Burr Oak on site was being protected and is doing well.

The Commission voted by ballot 14 yes – 0 no to approve **RESOLUTION PD 04-16.**

IV. PUBLIC HEARING

Jeff Kessler moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County, and the Unified Subdivision Ordinance of Tippecanoe County, Indiana, are hereby entered by reference into the public record of each agenda item. Kathy Vernon seconded and the motion carried by voice vote.

Jeff Kessler moved to continue **Z-2178—Robert Meister (GB to PDNR), Z-2182—Cory Homes, Inc. and Community Homes, Inc. (R1B to NB) and Z-2179 – Eagle’s Nest Corporation (R1 to R1B)** to the June 16th Area Plan Commission meeting. Kathy Vernon seconded and the motion carried by voice vote.

Jeff Kessler moved to continue **S-3497—Wintergreen Woods Subdivision (Minor Sketch)** to the June 2, 2004 Executive Committee meeting. Kathy Vernon seconded and the motion was carried by voice vote.

Mark Hermodson read the meeting procedures.

A. REZONING ACTIVITIES

1. **Z-2172—AREA PLAN COMMISSION OF TIPPECANOE COUNTY (WALLACE TRIANGLE NEIGHBORHOOD) (R3, NB, & R1B TO R1, R1U, R2U, & NB):** Petitioner is requesting rezoning of the Wallace Triangle Neighborhood being all the land lying east of the alley east of 9th Street, north of Kossuth Street (but including the lots on the south side of Kossuth with frontage on Kossuth Street), west of the alley east and parallel to State Street, and southwest of a line approximately 440' northeast of State Street, in Lafayette, Fairfield 28 (NW) 23-4. CONTINUED FROM THE APRIL MEETING BECAUSE OF FAILURE TO POST SIGNS.

Jeff Kessler moved to approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the existing zoning map, the proposed zoning map and 1 aerial photo. She pointed out that the staff report included a table explaining the non-conforming uses.

Margy Deverall read the staff report with recommendation of approval. She stated that Kathy Lind and Heather Prough were present and available to answer questions.

Stephen Wien, 619 South 10th Street, Lafayette, IN, stated that he has lived here for over 28 years and has seen many ups and downs in the neighborhoods. He said that the neighborhood is currently on an up swing and that is because the current landlords keep up the properties very well. He pointed out that if landlords change, that might not be the case anymore and this new zoning would protect the area. He stated that this proposal was hard work; it took many meetings and is fair to every one.

Jim Noonan, 618 South 11th Street, Lafayette, IN, stated that he was the president of the neighborhood association. He said that he was in favor of this proposal. He stated that he was gratified by the staff's proposal and thought it was fair to both sides. He said that this proposal was the most equitable and contained the most compromise. He mentioned that this proposal included changes to properties that were not in the original. He reiterated that he completely supported this proposal. He presented 3 binders containing 75 signatures of area residents who are in support of this petition as well as 40 detailed letters of support. He stated that regardless of the outcome of these meetings, it is always encouraging to have the opportunity to speak. He said that he did not want any R3 in the neighborhood any longer because it

is not good for the area. He mentioned that there has been a continual decline in the neighborhood since the 1960s. He pointed out that R3 is not appropriate for this area because of the size of the lots. He mentioned that there are already parking issues. He said that there are very few properties that even meet the R2 requirements. He stated that an R3 zone allows concurrent properties to be grouped together by one owner, which could lead to a larger multifamily structure. He explained that that situation would completely disrupt the character and historical nature of the area. He pointed out that a lot of area residents are older and would soon be retiring and moving. He explained that with a lot of homes going on the market, an R3 would leave a lot of room for deterioration. He said that now is the time to eliminate the R3 and make this neighborhood a beautiful gateway to the downtown area. He handed out the binders and a letter to the Commission.

Kathy Downey, 520 South 10th Street, Lafayette, IN, stated that she has lived here for about 17 years. She asked the Commission to consider the logic of zoning put in place in the 1960s. She said that she believes the zoning from the 1960s was a mistake and the neighborhood cannot support a density of R3. She stated that reasonable and thoughtful concessions had been made so that investment owners in the neighborhood would not be harmed. She said without the Area Plan Commission change, the zoning couldn't be protected. She stated that it was time to correct the mistake made in the 1960s.

John Hubner, 925 State Street, Lafayette, IN, stated that he was against this entire petition. He pointed out that the Wallace Triangle Association represented about 15% of the residents. He mentioned that the Association has 70 signatures, but he has not seen these 70 residents at any of the 7 meetings. He stated that he has improved his property from \$30,000 to \$130,000 and has worked really hard to improve a historical home. He said that property owners should be allowed to do what they want with their property. He stated that he believes the Association represents socialism. He asked that his property at 925 State St. remain R3.

LaDonna Shorter, 7112 S. 100 E, Lafayette, IN, stated that she owns property at 601, 603 and 605 South 10th Street. She explained that all of these properties were R3 and with this proposal there would be two R2 properties and one R1. She stated that she was against this proposal. She said that this is a very nice neighborhood and you can tell that a lot of people care about the area because of the large turnouts over the past few months. She mentioned that the property owners and landlords all want the same thing, to have the neighborhood stay nice and well kept. She stated that her husband grew up here and they did not feel the neighborhood has deteriorated at all. She explained the traffic and parking situation on 10th, 11th and Elliot Streets. She said that for an older neighborhood traffic was not that bad and the only problem was parking. She explained that because garages were not used, everyone has to park on the street. She said that the landlords have enough parking for their tenants, but if people have guests that cannot be controlled. She reiterated that she did not feel that the parking was a problem or that the neighborhood had deteriorated. She stated that she would be losing a lot of money because her properties were being downzoned. She requested that her three properties remain R3, even though it would be a compromise. She said that this was not a fair situation because her rights were being taken away. She explained that she bought all three of these properties in the same neighborhood because it was R3. She said that there were more problems now than when this rezoning process started.

Terry Masterson, 1115 Central Street, Lafayette, IN, stated that the argument has been that one R3 property would open the door for more and all kinds of housing. He said that is not true because all the restriction the UZO has for R3 zones would protect the neighborhood from overcrowding. He said that the argument that rental properties were a business and depreciated in value was also not true. He stated that in this neighborhood rentals have been some of the most successful buildings and have gone up in value faster than most properties. He said that if something is grandfathered in and it is destroyed, it is not true that insurance would cover it. He explained that there are rebuilding clauses that prevent this and by downzoning, the land underneath is lower in value because R3 is worth more than R2 or R1. He stated that if the value of the land has been decreased, the majority of the building would be covered, but could not be re-insured for what was there before. He pointed out that everyone has been saying that this proposal is a compromise and that also is not true. He explained that the goal of this rezoning was to destroy all of the R3, and there is no compromise because there is not one single R3 on this map. He stated that in the long run this proposal would do more harm than good. He said that if there was a choice between this proposal and leaving it alone, it should be left alone. He pointed out that the residents have known for 3 years that this rezoning would be coming up and they had plenty of opportunity to take

buildings down and replace them and not one has been taken down. He stated that every single building that was here in the 1950s is still here today and that is a strong argument for the R3 zoning.

James C. Werner, 615 South 10th Street, Lafayette, IN, stated that not all of the neighborhood residents were invited to the Association meetings. He said that he was not sure if the request to rezone came from the Association or from select residents of the area. He mentioned that he has not been invited to all of the proceedings including this one. He stated that at the beginning of this process, APC sent someone out into the neighborhood who determined that the neighborhood was in decline and had to be saved. He said that he understood the fears of the people who were in favor of R1, and they were entitled to do anything they wanted with their property, but they should not take away other people's rights. He stated that he has been to most of the meetings and presented APC and the Committee many documents showing the historical use of his property, pages from his abstracts, photos of the gas meters, letters from architects and engineers as well as a written request to keep his property R3. He said that all of the documents he has presented and all of his testimonies have been ignored. He pointed out that the materials he submitted show that his property has been historically used as a 3-unit and today it is a 4-unit. He pointed out that if this were grandfathered in as a multi-unit and then he used it as a single family when he was retirement age, he would not be able to return it to a multi-unit. He said that he did not understand how spot zoning a few properties could lead to cross zoning. He pointed out that to expand R3 on any of these lots would require huge variances that would be next to impossible to obtain. He reiterated that he has submitted a written request to spot zone his property to R3. He stated that to take an area that is completely R3 to absolutely no R3 is criminal.

Kevin Klinker asked if there were any fewer number of units that could be rented due to this proposal. He asked if the same number of people could live in each dwelling and unit.

Mark Hermodson stated that was correct.

John Hubner stated that his property is currently being used as a single family, but since he bought it as an R3 and paid for it as an R3, he would like to use it as such in the future.

Terry Masterson commented that if it is not continually used as an R3, it couldn't go back up. He explained that a lot of these building had been obsolete from the 1920s until they were converted to multi-units.

Mark Hermodson asked Sallie Fahey to explain the continuing rights and the policy of rezoning to what the structure was originally built for.

Sallie Fahey stated that a property, which becomes a non-conforming use, is permitted to remain so forever. She said that if there is damage they are allowed to be rebuilt with the same number of units until the damage exceeds 50% of the replacement cost. She explained that the purpose of the neighborhood rezonings was not to downzone, but to include new zones that had not existed until the 1998 UZO update. She stated that with the first neighborhood rezone, the question was posed as to how to handle properties that had been converted over the years to multifamily units. She said that the Ordinance Committee made a decision that it would be beneficial to the older neighborhoods to take the position that if a structure was built as a multifamily or in some cases converted as such prior to the original zoning ordinance, then it would receive a conforming zone. She mentioned that the staff works very hard when researching a neighborhood to determine the pedigree of buildings. She stated that the notion was that older neighborhoods would benefit from converted homes reverting back to single-family homes, with the hope of owner occupancy in the future. She said that until someone takes that action, a converted multi-unit was allowed to continue as such until it is damaged more than 50% of its replacement cost.

KD Benson asked if it would be allowed to remain even if sold.

Sallie Fahey replied affirmatively. She explained that it could be sold and re-sold forever and the rights would continue.

KD Benson asked if only one unit was completely damaged, if it could be replaced.

Sallie Fahey explained that if there was an R3 with 3 units and there was some damage, but the building was not going to be demolished, it could be rebuilt because it has an R3 zone. She stated that if the building were completely destroyed and there was nothing left, a brand new building would have to meet all the requirements of the UZO for a multi-family structure, including size, area and setback or obtain variances from the Lafayette BZA.

KD Benson pointed out that the UZO was not set in stone and it changes on a regular basis. She informed the remonstrators that if the zoning does not go the way they want, there is nothing stopping them from requesting spot rezoning in the future.

Steve Schreckengast stated that he was torn between weighing the rights of multi-unit owners who may have owned their property for as long as single-family owner occupied residents. He said that he was not convinced that a three unit, well maintained, well-managed building would be a deterrent to the neighborhood. He mentioned that the Ordinance Committee was going to be looking at different levels of density for R3. He asked if that would help this situation.

Sallie Fahey stated that currently R3 is not determined by density, but by lot square footage per dwelling unit

Steve Schreckengast asked if new R3 zones, determined by density would be appropriate in this situation where people were afraid of cross building huge structures.

Sallie Fahey stated that would definitely apply and help this situation. She explained that in that situation an R3 zone could have a maximum number of units. She said that another helpful thing would be to have a uniformed lot definition, so that there would be an approval process for aggregating lots. She stated that having the Ordinance Committee address different levels of R3 density is on the list of topic for the near future.

Jeff Kessler respectfully disagreed with Steve Schreckengast. He stated that he sees this neighborhood as a gateway from the south. He said that this was an old neighborhood with a lot of character. He stated that he believes that R3 can be a deterrent and increase deterioration. He mentioned that there are a lot of R3 structures that are well maintained. He pointed out that when determining land use, R3 is not appropriate for this area.

The Commission voted by ballot 10 yes – 4 no to recommend approval of **Z-2172—AREA PLAN COMMISSION OF TIPPECANOE COUNTY (WALLACE TRIANGLE NEIGHBORHOOD) (R3, NB, & R1B TO R1, R1U, R2U, & NB)** to the Lafayette City Council.

Yes votes

Mark Hermodson
KD Benson
David Williams
Lynda Phebus
Jeff Kessler
Bob Bowman
Steve Schreckengast
Kathy Vernon
Kevin Klinker
Mike Smith

No votes

Steve Egly
John Knochel
Gary Schroeder
Vicky Pearl

2. **Z-2173—AREA PLAN COMMISSION OF TIPPECANOE COUNTY (BAKER AND SUMMERS PROPERTIES IN BUCK CREEK) (R1 AND UNZONED LAND TO A AND R1):** Petitioner is requesting rezoning of 0.95 acres of unplatted land on the southeast side of South Street, unincorporated Buck Creek in order to correct an omission on the Buck Creek zoning map, Washington 33 (NW) 24-3. **CONTINUED FROM THE APRIL MEETING BECAUSE OF FAILURE TO POST SIGNS.**

Jeff Kessler moved to approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the existing Buck Creek and Washington Township zoning maps, the proposed Buck Creek zoning map and 2 aerial photos.

Margy Deverall read the staff report with recommendation of approval.

The Commission voted by ballot 14 yes – 0 no to recommend approval of **Z-2173—AREA PLAN COMMISSION OF TIPPECANOE COUNTY (BAKER AND SUMMERS PROPERTIES IN BUCK CREEK) (R1 AND UNZONED LAND TO A AND R1)** to the Tippecanoe County Commissioners.

3. **Z-2177—HIGHLAND PARK PLACE, LLC (PDRS TO PDRS):** Petitioner is requesting rezoning of 2.532 acres to amend existing Highland Park Place PD to increase the square foot area of two dwelling units, add patio space to the school building units and construct a garage and carport to house a total of 12 parking spaces. The site is located on the southeast corner of Fifth and Owen Streets in Lafayette, Fairfield 29 (SE) 23-4.

Jeff Kessler moved to approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos, site plan and landscape plan.

Margy Deverall read the staff report with recommendation of approval contingent on the following: Meeting all requirements of UZO 2-27-10 for submission of Final Detailed Plans, signed off by those noted in that section to include:

1. All sheets (other than the preliminary plat) and narrative that make up the approved Preliminary Plan;
2. PD construction plans per UZO Appendix B-2-2;
3. A final plat and declaration of horizontal property regime, per UZO Appendix B-3-2 as applicable; and
4. A note on the plans and in the covenants requiring the homeowners' association to maintain the small area of surplus City right-of-way at the site's southeast corner, and a document from the City Engineer authorizing residents' right of entry to it.

Joseph T. Bumbleburg, PO Box 1535, Lafayette, IN, concurred with the staff report. He explained that the zoning would stay the same on this property, and the petition is only to allow minor changes to the previously approved plan. He stated that this would grant very limited permissions to make minor changes. He said that this was still a great project and well conceived PD.

The Commission voted by ballot 14 yes – 0 no to recommend approval of **Z-2177—HIGHLAND PARK PLACE, LLC (PDRS TO PDRS)** to the Lafayette City Council.

4. **Z-2180—DAVID THOMPSON & JOHN THOMPSON (I3 TO GB):** Petitioners are requesting rezoning of three lots located in Kepner Industrial Subdivision, and a larger unplatted area of 7.78 acres located on the east side of Sagamore Parkway, south of SR 26, 181 Sagamore Parkway South, Lafayette, Fairfield 27 (NE) 23-4.

Jeff Kessler moved to approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map and 2 aerial photos.

Margy Deverall read the staff report with recommendation of approval.

Daniel Teder stated that the petitioner was present. He said that the intent was to renovate the existing building and take down the existing pole building and use the space for parking. He mentioned that this would greatly enhance the area. He stated that there were no objections from the neighbors.

The Commission voted by ballot 14 yes – 0 no to recommend approval of **Z-2180—DAVID THOMPSON & JOHN THOMPSON (I3 TO GB)** to the Lafayette City Council.

5. **Z-2181—DAVID M. BEIGH (NB TO GB):** Petitioner is requesting rezoning of Lot 61 of the Original Plat of the town of Americus, located at the northeast corner of SR 25 and Washington Street (a.k.a. Grant Road) Washington 16 (SE) 24-3.

Jeff Kessler moved to approve the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map and 2 aerial photos.

Margy Deverall read the staff report with recommendation of denial.

Darren Chadd, 127 W. Main Street, Suite 400, Lebanon, IN, stated that he represented the petitioner who would like to make some comments.

David Beigh, 7110 Goldsberry Road, Battle Ground, IN, stated that one of the reasons for this request was because he did not currently have a changeable copy sign to advertise specials, and his competition does. He said that this business has been at this location since the 1950s, so the use is not in question. He stated that he is currently working on a sign for the existing pole and as of right now, there is still room for more signage under the UZO. He said that the staff mentioned the sign that was currently being used and he explained that he did obtain a permit for it. He stressed that he is not trying to do anything outside of what is allowed and is working hard to follow all procedures. He stated that he was currently in negotiations to obtain more land adjacent to his. He mentioned that there is a GB zone across the street from his property.

Darren Chadd stated that this would be a win-win situation. He explained that this would help the business as well as the town of Americus. He said that there is no opposition from the neighbors and there would be no harm to the area. He stated that the small size of the lot is helpful and would not allow anything other than a small business.

Al Levy stated that he did not agree with the staff's comment that the current sign was an illegal changeable copy sign. He explained that the sign was actually a portable event oriented sign. He said that when the first sign was put out, he contacted the owner who corrected the problem by obtaining a permit. He stated that since he brought the problem to the petitioner's attention, the petitioner has done his best to follow the ordinance. He said that these portable signs should not be considered a changeable copy sign. He said that the nature of the use of this sign should not qualify as a changeable copy sign because the copy does not change while it is on display. He stressed that he is totally neutral about what the proper zone should be. He said that he just wanted to be clear on the sign issue.

John Knochel stated that if the Commission denied this request, it would put the petitioner at a disadvantage in this area. He mentioned that when Hoosier Heartland is built it would have a negative impact on this area and business. He said that granting this request would lessen that negative impact. He stated that this would not harm the area in any way. He pointed out that it was the original owner and not the current owner, who requested the first rezone to NB.

The Commission voted by ballot 12 yes – 1 no and 1 abstention for a vote of 13 yes to – 0 no to recommend approval of Z-2181—DAVID M. BEIGH (NB TO GB to the Tippecanoe County Commissioners.

Yes votes

John Knochel
KD Benson
David Williams
Lynda Phebus
Jeff Kessler
Bob Bowman
Steve Schreckengast
Kathy Vernon
Kevin Klinker
Mike Smith
Vicky Pearl
Gary Schroeder
Steve Egly

No votes

Mark Hermodson

A. SUBDIVISIONS

- 1. S-3502—PARK 475 SUBDIVISION (Major-Preliminary):** Petitioner is seeking primary approval for a 12-lot industrial subdivision on 73.31 acres, located at the southwest corner of Haggerty Lane and CR 475 E, in Wea 1 (NE) 22-4.

Jeff Kessler moved to hear and vote on the above-described request. Kathy Vernon seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos and preliminary plat.

Margy Deverall read the staff report with recommendation of conditional primary approval contingent on the following conditions:

A. Variances

1. A variance to permit a dead-end road to terminate on the boundary of the subdivision instead of the required 50-ft. separation. -- USO Section 5.3(1)(h)(ii)
2. A variance to permit the modified "T" shaped turnaround instead of the standard round cul-de-sac, as shown on the preliminary plat. -- USO Section 5.3(2)(a)

B. Conditions

1. "Street 1" and "Street 2" shall be replaced by names approved by the Post Office, 911 and APC Staff.

CONSTRUCTION PLANS – The following items shall be part of the Construction Plans application and approval:

2. The Lafayette City Engineer shall approve the sanitary sewer and water plans.
3. The fire hydrants shall be approved by the Wea Township Fire Department. Plans for the actual placement of the hydrants shall be approved by the City in cooperation with the Fire Department.
4. An Erosion and Sediment Control Plan meeting the requirements of 327 I.A.C. 15-5 shall be approved by the Tippecanoe County Soil and Water Conservation District and meeting the requirements of the County Drainage Board as required by Tippecanoe County Ordinance #93-18-CM.
5. The County Drainage Board shall approve the drainage plans.
6. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.
7. The required bufferyard shall be shown with the standard plant unit details. The bufferyard shall be installed as part of required public improvements.

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

8. Except for the approved street entrances, "No Vehicular Access" statement shall be platted along the Haggerty Lane and CR 475 E right-of-way lines.
9. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
10. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
11. All required building setbacks shall be platted.
12. The street addresses and County Auditor's Key Number shall be shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

13. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.

Dave Ayala, TBird Design, 4720 South 100 West, Lafayette, IN, stated that this was only a request to replace an expired plat. He concurred with the staff report and conditions and asked for approval.

The Commission voted by ballot 14 yes – 0 no to approve the two variances.

The Commission voted by ballot 14 yes – 0 no to permit bonding for all public improvements.

The Commission voted by ballot 14 yes – 0 no for conditional primary approval of **S-3502—PARK 475 SUBDIVISION (Major-Preliminary).**

Sallie Fahey introduced the new West Lafayette Engineer, Dave Buck.

Several members welcomed Dave Buck.

V. ADMINISTRATIVE MATTERS

Sallie Fahey presented a written report of topics she would like to discuss. She asked that the Commission revisit Resolution 03-01, which was tabled in August 2003 until a new Executive Director was in place. She explained that this Resolution dealt with the authority of the Executive Director to hire and terminate employees up to the Assistant Director position, without prior consent of the Commission.

Jeff Kessler moved to take Resolution 03-01 off the table. Kathy Vernon seconded and the motion carried by voice vote.

Mark Hermodson stated that this could now be discussed because it is off the table.

Sallie Fahey stated that she was not requesting that it be discussed tonight, only that it be placed on an agenda for discussion.

James Hodson stated that would be an appropriate action.

Mark Hermodson recapped the history and intent of this Resolution. He mentioned that the Budget and Personnel Committee had recommended that this Resolution be passed and instead it was tabled.

KD Benson asked for clarification as to what the State statute said.

Sallie Fahey explained that the State Statute said that it is the function of the Executive Director, with consent of the Commission, to hire and terminate.

Mark Hermodson reiterated that the Resolution would allow the Executive Director to hire and terminate positions below the Assistant Director without the Commissions consent.

Steve Schreckengast asked whether this should go back to the Budget and Personnel Committee.

Mark Hermodson stated that it has already been before the Budget and Personnel Committee.

Steve Schreckengast stated that he would like it to go back the Budget and Personnel Committee, since it is a whole new Committee.

Steve Schreckengast moved to send Resolution 03-01 to the Budget and Personnel Committee. KD Benson seconded the motion.

Gary Schroeder asked Steve Schreckengast why he felt it should go back to the Budget and Personnel Committee.

Steve Schreckengast explained that the Committee was made up of new members and it would give it one more opportunity for discussion.

Sallie Fahey reviewed the list of members currently on the Budget and Personnel Committee.

The motion carried by voice vote.

Sallie Fahey stated that Julie Holder had submitted her resignation as Executive Secretary because she had been cherry-picked by the Health Department. She said that she had offered the position to Michelle D'Andrea, who has accepted and all was conditioned on the Commission's consent. She mentioned that Human Resources has already posted the Recording Secretary position, and there are two applicants. She explained that the position has to be posted for 10 days, interviews must be conducted and the candidate must be allowed to give 2 weeks notice at their current job. She pointed out that if consent must wait for the June APC meeting, there would not be enough time for the person to begin on July 1, 2004. She asked for permission to hire Michelle D'Andrea as Executive Secretary and to offer the Recording Secretary position to a successful candidate, without prior consent of the Commission.

Jeff Kessler moved to grant both requests as described above. KD Benson seconded and the motion carried by voice vote.

Steve Schreckengast asked if there was a substantial pay difference between the APC and Health Department.

Sallie Fahey stated that the Health Department position is a whole pay level higher than the APC position. She explained that the Health Department positions are clerks, but they handle money so their level is higher. She pointed out that all three of the APC clerical positions have to handle money at some time or another and the APC also requires a higher level of ability than a clerk position. She stated that when the office reorganization is addressed, she would be requesting that at least the Executive Secretary and Bookkeeper positions be raised a level.

KD Benson stated that the job descriptions would have to be rewritten and submitted to the external consulting firm.

Sallie Fahey informed the Commission that the staff has collected a donation for Robert Mucker and would like to use it to name the APC conference room after him. She asked for the Commission's consent before approaching the County Commissioners

Jeff Kessler moved to grant consent of naming the conference room the Robert Mucker Conference Room. Kathy Vernon seconded and the motion carried by voice vote.

Sallie Fahey stated that the Ordinance Committee had a request to change the regular date of the second monthly meeting. She said that the options are the 3rd Thursday, the 4th Monday, the 2nd Tuesday or 2nd Wednesday. She mentioned that Kathy Lind had a conflict with Mondays.

Robert Bowman stated that the 2nd Wednesday would not work for him.

Mark Hermodson stated that the 2nd Tuesday would not work for him.

The consensus was to begin the 3rd Thursday of the month in June on a trial basis.

Kathy Vernon asked if there was a Budget and Personnel Committee scheduled.

Sallie Fahey stated that there was not one scheduled, but she would email everyone to set up a time.

VI. APPROVAL OF THE MARCH EXECUTIVE COMMITTEE AGENDA

Jeff Kessler moved that the following subdivision petitions be placed on the June 2, 2004 Executive Committee Agenda at petitioner's request, placement thereon being without reference to compliance or non-compliance with the adopted subdivision ordinance:

S-3497-WINTERGREEN WOODS SUBDIVISION (MINOR-SKETCH)

S-3506-CLEARWATER SUBDIVISION (MINOR-SKETCH)

S-3507-THE OAKS SUBDIVISION (MINOR-SKETCH)

S-3509-McALISTER SUBDIVISION (MINOR-SKETCH)

S-3510-COLLIER SUBDIVISION (MINOR-SKETCH)

Kathy Vernon seconded and the motion carried by voice vote.

VII. DETERMINATION OF VARIANCES – AREA BOARD OF ZONING APPEALS

Jeff Kessler moved that the following requests for variance from the Unified Zoning Ordinance are not requests for use variance, prohibited from consideration by ordinance and statute.

BZA- 1668 – DALE W. & KAREN A. PERMAN

Kathy Vernon seconded and the motion carried by voice vote.

VIII. DIRECTOR'S REPORT

Sallie Fahey presented a written directors report. She highlighted the meeting between staff, INDOT, Federal Highway and Federal Transit regarding the FY 2005 work program. She mentioned that some

ideas came out of the meeting on how to utilize more Federal funds. She stated that there would be some overall changes to the work program to include these ideas and to fix the salary increase recommendation. She informed the Commission that the County is on the way to becoming technical partners with FEMA to have the flood plain maps redone. She mentioned that the new phones are greatly appreciated.

IX. CITIZENS' COMMENTS AND GRIEVANCES

Paul Winstead, 254 Washington Street, Dayton, IN, stated that zoning has been misunderstood and abused, especially in Dayton. He mentioned a gas station that has abused the zoning and explained some of their violations. He commented on a subdivision that had been built next to another without improving the retention ponds. He pointed out that this causes problems with the Clean Safe Drinking Water Act. He stated that these are some of the issues that are not dealt with enough. He said that he has been on the Council for 16 years. He stated that there is confusion as to who has the authority. He mentioned that he has seen people opposed to proposed zoning changes, when they themselves are in violation.

Mark Hermodson stated that his comments and complaints have been heard and registered.

KD Benson stated that the Surveyor would have to investigate the drainage issue. She asked for confirmation that the zoning enforcement was done by the APC staff.

Sallie Fahey stated that when the UZO was put into place in 1965, all building permits and enforcement was done by the APC, except in the cities. She said that in 1974 the County decided to create the Building Commission and Enforcement offices. She explained that left the three towns to the APC. She said that James Hawley had a conversation with the towns, but she had not. She said that at the time James Hawley spoke to the towns, they wanted things to remain with the APC. She mentioned that it was a good time for her to sit down with the town councils and discuss these issues. She stated that she met with the Clarks Hill Town Council in February, but the discussion was more general. She said that she would pursue setting up a work session with each of the town councils.

Steve Schreckengast asked if Sallie Fahey saw an advantage to all building permits being handled by the County Building Commission office.

Sallie Fahey stated that she did not have a problem with that, so long as they are paying attention to the UZO when issuing permits.

KD Benson asked if enforcement could be delegated to one of the APC staff.

Sallie Fahey replied affirmatively.

Steve Schreckengast asked if Dayton relied on revenue from building permits.

Sallie Fahey replied negatively. She stated that the APC collects the fees. She mentioned that recently an agreement has been put into place with Dayton, that the APC will not issue a building permit until the council reviews it and issues a letter. She said that it takes a little longer for people to get their permits, but it has worked out well.

Robert Bowman stated that he just found out about that agreement today.

Sallie Fahey asked Paul Winstead for confirmation that this agreement had been discussed.

Paul Winstead replied affirmatively. He stated that some things have improved, but there are still more needed. He said that Sallie Fahey was doing a great job. He mentioned that it was difficult dealing with these issues when there is no staff. He suggested creating a Dayton staff to police their own action.

X. ADJOURNMENT


Jeff Kessler moved for adjournment. Kathy Vernon seconded and the motion carried by voice vote.
The meeting was adjourned at 9:00 P.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. D'Andrea", written in a cursive style.

Michelle D'Andrea
Recording Secretary

Reviewed by,

A handwritten signature in black ink, appearing to read "Sallie Dell Fahey", written in a cursive style.

Sallie Dell Fahey
Executive Director